OHIC Payment and Care Delivery Advisory Committee Telemedicine Subcommittee

SEPTEMBER 24, 2020

Agenda

Welcome and Introductions	10:00am – 10:05am
Goals and Process for Developing Consensus-Based Recommendations	10:05am – 10:15am
Latest Evidence and Research	10:15am – 10:35am
Discussion of and Public Comment on Telemedicine Payment and Program Integrity Issues	10:35am – 11:45am
Information Gathering on Specific Issues to Explore in Further Depth	11:45am – 11:55am
Next Steps and Adjournment	11:55am – 12:00pm

Goals and Process for Developing Consensus-Based Recommendations

Telemedicine Advisory Group Goals

Since COVID-19 will continue to be a concern in the coming months, and the need to facilitate access to services through telemedicine persists throughout the duration of the PHE, this group will provide recommendations to Governor Raimondo, Commissioner Ganim and Director Shaffer on potential revisions to emergency telemedicine policies.

At the same time, we want to be forward-looking and address:

- which temporary emergency policies should or should not be carried forward on a more permanent basis; and
- how to improve telemedicine as a convenient, cost-effective, accessible and equitable option for providers and patients in Rhode Island.

Reminder of Process for Developing Consensus-Based Recommendations

For each policy issue, project staff will share context about the policy choices - both internal and external to Rhode Island - including a list of pros and cons.

The group will discuss each issue, including exploring the pros and cons of policy choices, and identifying key concerns, needs and objectives.

All participants are welcome to provide input.

All draft recommendations will be recorded and emailed to the group in advance of each meeting.

Reminder of Zoom Meeting Procedures

Please stay muted to reduce background noise and use the “raise hand” feature if you wish to speak. We will keep track of raised hands and call on individuals as time permits.

- Due to the large number of participants, we may not get to every individual who raises their hand, but will prioritize a diverse sampling of stakeholders.
- There will also be a public comment period at the end of each topic area.
- When called on to speak, *please slowly state your name and the organization you represent* prior to commenting or asking a question.
- You may also use the chat function for general questions to the group.

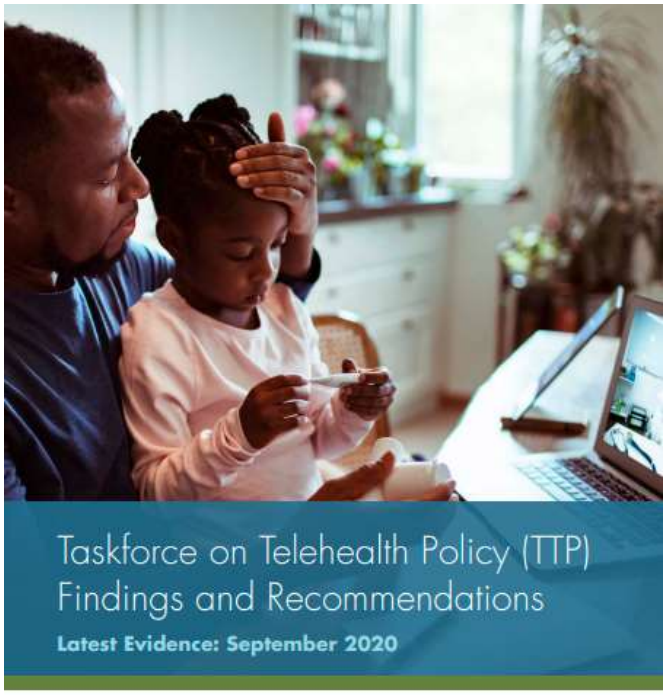
Latest Evidence and Research

Taskforce on Telehealth Policy (TTP)

Taskforce was formed to assess the changes to telemedicine resulting from the pandemic and to find agreement on recommendations that would maximize the availability of safe, high-quality and cost-effective telemedicine services.

Convened by:

- Alliance for Connected Care
- National Committee for Quality Assurance (NCQA)
- American Telemedicine Association (ATA)



Members of the Taskforce on Telehealth Policy

Peter Antall, MD, Amwell

Kate Berry, AHIP

Regina Benjamin, MD, Founder, BayouClinic/Gulf States Health Policy Center, Former U.S. Surgeon General

Krista Drobac, Alliance for Connected Care

Yul Ejnes, MD, American College of Physicians

Rebekah Gee, MD, Louisiana State University

Nancy Gin, MD, The Permanente Federation

Kate Goodrich, MD, Humana

Ann Mond Johnson, ATA

Chuck Ingoglia, National Council for Behavioral Health

Megan Mahoney, MD, Stanford

Chris Meyer, Marshfield Clinic

Ricardo Munoz, MD, Children's National

Peggy O'Kane, NCQA

Kerry Palakanis, DNP, APRN, Intermountain

Michelle Schreiber, MD, CMS Liaison *(non-voting)*

Dorothy Siemon, JD, AARP

Julia Skapik, MD, MPH, NACHC

Jason Tibbels, MD, Teladoc

Nicholas Uehlecke, HHS Liaison *(non-voting)*

Andrew Watson, MD, UPMC

Cynthia Zelis, MD, MD Live

Taskforce on Telehealth Policy (TTP)

Recommendations made by members of the TTP were informed by:

- More than 300 written public comments
- Virtual townhall attended by nearly 1,000 stakeholders

TTP developed recommendations in three major areas, which we will summarize today.

1. Patient Safety and Program Integrity
2. Data Flow, Care Coordination and Quality Measures
3. Impact on Total Costs

We will remind you of these recommendations to the extent they can inform the policy options before us.

Patient Safety and Program Integrity Findings and Recommendations (summarized)

Relevant Patient Safety Recommendations

- Adapt and supplement existing patient safety standards to telemedicine, rather than creating a layer of new telemedicine policies on top of existing in-person care regulations.
- Update existing in-person adverse patient safety events to incorporate telemedicine, including collecting necessary information and data from telemedicine services.

Relevant Program Integrity Recommendations

- Federal and state governments should foster use of sophisticated analytic and artificial intelligence tools that can detect fraudulent behavior, and audit claims on the back end.

For the full list of recommendations, please see the original report located on NCQA's website (www.ncqa.org).

Data Flow, Care Coordination and Quality Measure Findings and Recommendations

Relevant Data Flow and Care Integration Recommendations

- Clear data sharing standards and guidelines should be developed to assist providers and vendors in understanding data transmission and interoperability expectations.
  - *These are unlikely to be set at the state level.*

Relevant Quality Measurement Recommendations

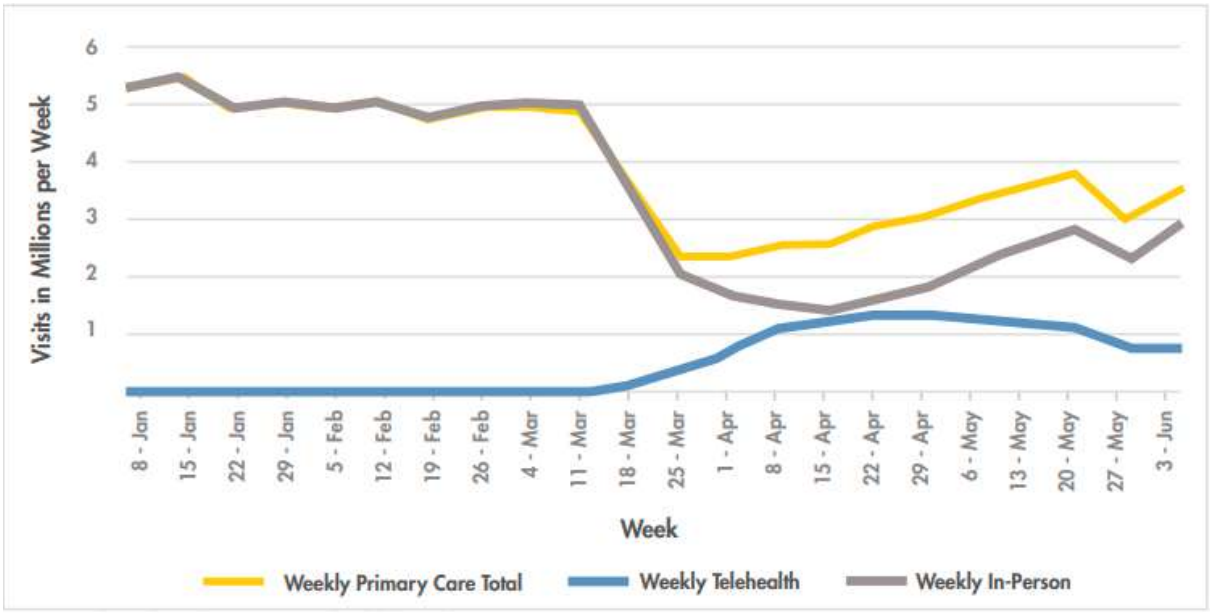
- Measure stewards should carefully and thoughtfully review all measures individually to determine the need for telehealth adaptations
- CMS should pilot a patient experience survey linked to telehealth encounters

For the full list of recommendations, please see the original report located on NCQA's website (www.ncqa.org).

Impact on Total Costs Findings and Recommendations

Data from Medicare claims suggest that telehealth substituted for in-person care without increasing utilization. However, behavioral health has been an exception.

Data from Rhode Island is anticipated to be reviewed at the next meeting. We are still awaiting data from all payers.



Source: Medicare claims data up to une 3rd, available as of June16.

Impact on Total Costs Findings and Recommendations

Telehealth services should be reimbursed based on a thoughtful consideration of the value provided and the cost of delivery – as is done with in-person care. Flexibility on the use and reimbursement of these services is essential to maximizing the benefit to patients and the system at large.

When analyzing and discussing telehealth costs, policymakers should take a wider view and incorporate costs to patients and family caregivers…[providers], and payers. These costs could – and should – include avoided transportation costs, time spent scheduling, preparing for or waiting for a visit…etc.

Long term conclusions and policies based on costs and outcomes can only be drawn from data derived during the relatively normal conditions that follow the pandemic.

For the full list of recommendations, please see the original report located on NCQA's website (www.ncqa.org).

Recommendations Specific to COVID-19 Policy Changes

TTP recommends that policymakers make permanent the following specific COVID-19 policy changes:

- **Lifting geographic restrictions and limitations on originating site**
  - *This Subcommittee has made this recommendation*
- **Allowing telehealth for various types of clinicians and conditions**
  - *We will address part of this today*
- **Allowing audio-only telehealth where evidence demonstrates it to be effective, safe and appropriate, or whether it is likely to be so and offers access to care that would otherwise be unavailable to a patient.**
  - *This Subcommittee favored allowing audio-only telemedicine*

Recommendations Specific to COVID-19 Policy Changes (cont'd)

- **Acknowledging that telehealth visits can meet requirements for establishing a clinician/patient relationship if the encounter meets appropriate care standards or unless careful analysis demonstrates, that, in specific situations a previous in-person relationship is necessary**
  - *This has not been raised as an issue in Rhode Island. The Rhode Island Board of Medical Licensure and Discipline allows for the establishment of the patient-physician relationship through telemedicine.*

- **Eliminating unnecessary restrictions on telehealth across state lines.**
  - *This falls within RIDOH's purview and will not be addressed by this group.*

Discussion of and Public Comment on Telemedicine Payment and Program Integrity Issues

Payment and Program Integrity

Payment and Program Integrity

1. Specifically prohibit restrictions on the services that can be provided through telemedicine
2. Payment parity between telemedicine and in-person visits

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

RIGL § 27-81

"A health insurer shall not exclude a health care service for coverage solely because …[it] is provided through telemedicine… so long as such health care services are medically appropriate to be provided through telemedicine and as may be *subject to the terms and conditions of a telemedicine agreement* between the insurer and the participating health care provider or provider group."

Rhode Island General Law has broad language requiring coverage of medically appropriate telemedicine services, and does not restrict the provider types that could be reimbursed for telemedicine. However, some payers do.

Language in state statute that defers to the terms and conditions of agreements in place between parties would still allow for restrictions on the types of services provided through telemedicine, and therefore the types of providers who can get reimbursed for telemedicine.

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

RIGL § 27-81

"A health insurer shall not exclude a health care service for coverage solely because …[it] is provided through telemedicine… so long as such health care services are medically appropriate to be provided through telemedicine and as may be *subject to the terms and conditions of a telemedicine agreement* between the insurer and the participating health care provider or provider group."

OHIC guidance in support of Executive Order 20-06 requires insurers to permit all in-network providers to deliver clinically appropriate, medically necessary covered health services via telemedicine, including those traditionally excluded from telemedicine coverage policies such as occupational, physical and speech language pathology therapists.

If passed, the Telemedicine budget article would remove the ability to restrict the services and providers eligible for telemedicine reimbursement based on the conditions of telemedicine agreement between parties *until June 30, 2021*, but reinstate it afterwards.

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

RIGL § 27-81

"A health insurer shall not exclude a health care service for coverage solely because …[it] is provided through telemedicine… so long as such health care services are medically appropriate to be provided through telemedicine and as may be *subject to the terms and conditions of a telemedicine agreement* between the insurer and the participating health care provider or provider group."

The question we are dealing with here is whether public health emergency policies should continue to prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services, and whether this should be made a permanent policy beyond the public health emergency.

This is not trying to change scope of practice requirements for telemedicine providers.

Telemedicine providers would still need to adhere with licensing and scope of practice requirements as defined by RIDOH.

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

Pre-COVID-19, commercial plans that have restricted providers eligible for telemedicine reimbursement all reimbursed the following providers (which largely follows Medicare policy):

- Physician, which includes Psychiatrist
- Physician Assistant
- Nurse practitioner
- Nurse midwife
- Clinical nurse specialist
- Clinical psychologist
- Clinical social worker
- Registered dietitian or nutrition professional

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

In Rhode Island, the commercial insurers varied with respect to coverage of:

- Licensed Marriage and Family Therapists
- Licensed Mental Health Counselors
- Certified Registered Nurse Anesthetists

None cover Physical Therapists, Occupational Therapists, Speech Language Pathologists which is specifically mentioned in OHIC's guidance supporting the Governor's Executive Order.

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

AS OF 2019, EIGHT OF THE MORE COMMON TELEHEALTH PROVIDER TYPES INCLUDE:

1. Physician
2. Physician assistant
3. Nurse practitioner
4. Licensed mental health professional
5. Occupational therapist
6. Physical therapist
7. Psychologist
8. Dentist

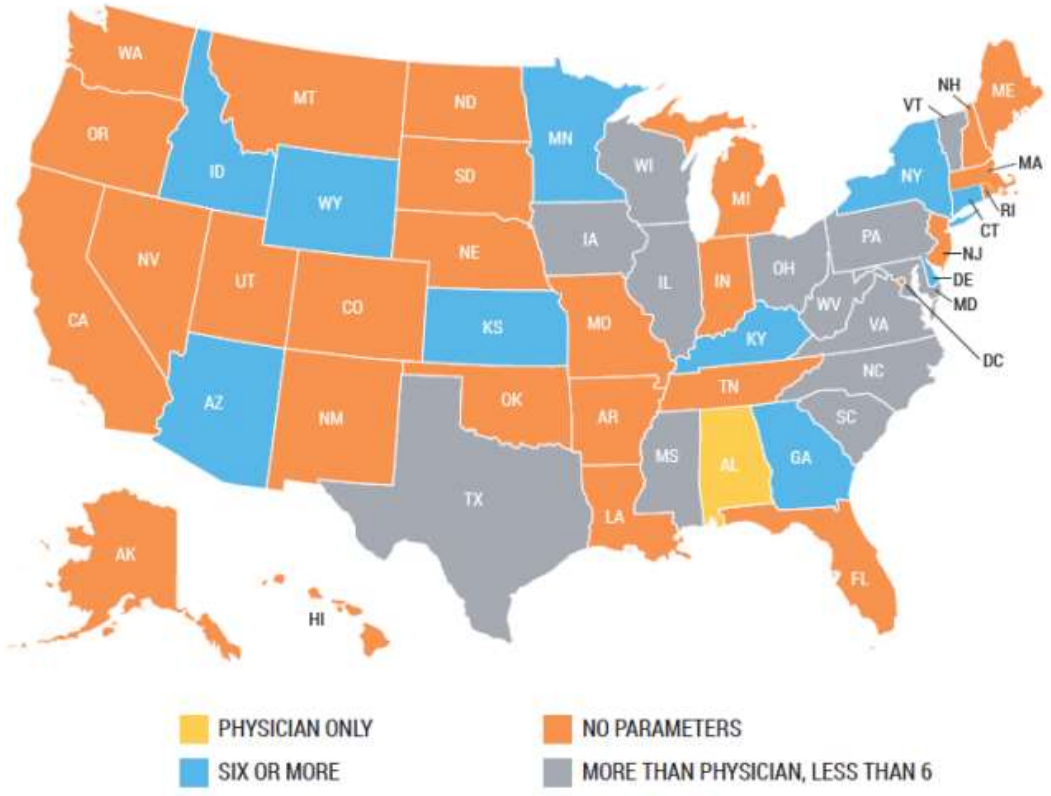
SOURCE: American Telemedicine Association, "2019 State of the States: Coverage and Reimbursement," July 18, 2019

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

As of 2019:

- 26 states and DC did not have restrictions around eligible provider types (Rhode Island is among these states --- but remember, payers do)
- 10 states authorized six or more provider types



SOURCE: American Telemedicine Association, "2019 State of the States: Coverage and Reimbursement," July 18, 2019.

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

PROS

- May reduce disparity in accessibility to care and increase convenience to patients.
- May help mitigate the effects of health care workforce shortages by allowing patients to access more provider types.
- Decisions to cover services and providers through telemedicine would be based more on medical necessity and clinical appropriateness criteria.
- Removes administrative burden and billing complications associated with tracking by "allowable provider types"

CONS

- Removes some insurer flexibility to make certain coverage and reimbursement decisions for telemedicine.

Do you have any additional pros or cons?

Payment and Program Integrity

Question: Whether to specifically prohibit restrictions on provider types eligible for reimbursement of medically appropriate telemedicine services

Discussion

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

OHIC Bulletin 2020-01 In Support of Executive Order 20-06

"Carriers shall reimburse in-network participating providers for services delivered via telemedicine at least at the rate of reimbursement that the Carrier would reimburse for the same services when provided via in-person methods. Such reimbursement should not include any so-called facility fees for distant or originating sites."

Rhode Island General Law does not specifically address the rate of reimbursement of telemedicine services as compared to in-person services.

OHIC guidance in support of Executive Order 20-06 requires insurers to reimburse in-network providers for telemedicine services at least at the rate of reimbursement for the services when delivered in person.

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

OHIC Bulletin 2020-01 In Support of Executive Order 20-06

"Carriers shall reimburse in-network participating providers for services delivered via telemedicine at least at the rate of reimbursement that the Carrier would reimburse for the same services when provided via in-person methods. Such reimbursement should not include any so-called facility fees for distant or originating sites."

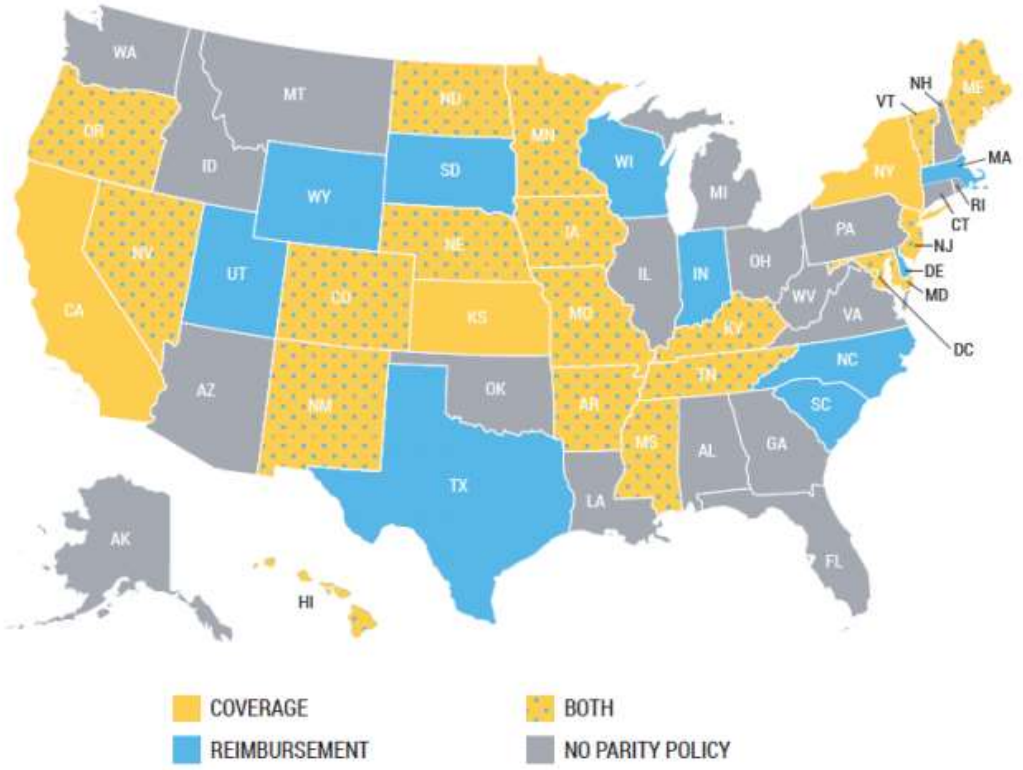
The question we are discussing today is whether to continue this policy through the remainder of the public health emergency and whether to statutorily require reimbursement of telemedicine services at rates not lower than the reimbursement rates for the same service delivered in person.

In this discussion, we will refer to the term 'payment parity' which we specifically mean equal payment for equal services, regardless of how the service is delivered - in person or through telemedicine.

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

- Pre-COVID-19 (2019), 28 states had telemedicine payment parity policies in their Medicaid program.
- Rhode Island Medicaid was silent on this topic, but believes that Federal guidance inherently required payment parity unless a state plan amendment specifically requested a deviation.



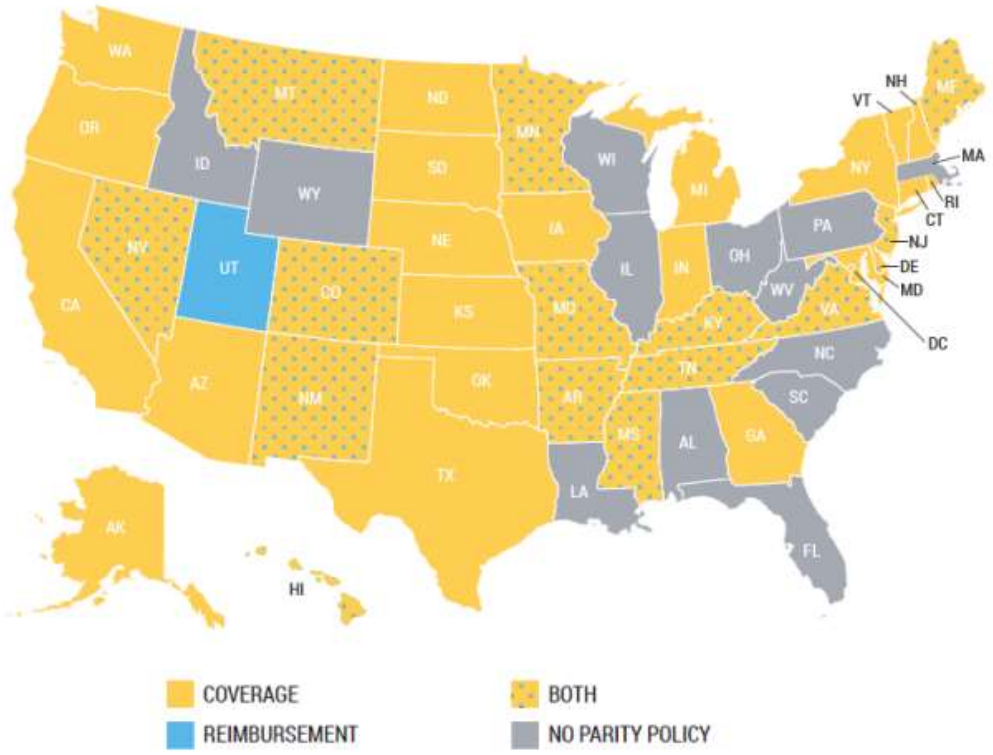
Source: American Telemedicine Association, July 2019

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

- Pre-COVID-19 (2019), 16 states had telemedicine payment parity policies for private payers.

- Rhode Island did not.



Source: American Telemedicine Association, July 2019

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

Examples of Payment Parity Policies that Existed Pre-COVID-19

Arkansas § 23-79-1602

- "(c)(1) A health benefit plan shall provide coverage and reimbursement for healthcare services provided through telemedicine **on the same basis** as the health benefit plan provides coverage and reimbursement for health services provided in-person…"
- "(c)(2) A health benefit plan is not required to reimburse for a healthcare service provided through telemedicine that is not comparable to the same service provided in person.

Delaware 18 § 3370

- "(e) An insurer….shall reimburse the treating provider…of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer….is responsible for coverage for the provision of the same services through in-person consultation or contact.

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

Currently, and due to the pandemic, 17 states have taken action to re-affirm or require payers to reimburse all telemedicine services at the same rate as in person.

Arizona	Massachusetts	Texas
Arkansas*	Montana	Vermont
California*	New Hampshire	Washington
Delaware*	New Jersey	
Illinois	New Mexico	
Iowa	New York*	
Maine	Rhode Island	

*These states had enacted laws requiring payment parity and are included if action was taken in response to the pandemic to remind insurers of these requirements.

Source: Kaiser Family Foundation

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

Medicaid:

- As of June 15, 2020 at least 39 states (and DC) have established policies for payment parity for at least some telemedicine services. Rhode Island was one for its FFS population.

Private Payers:

- Many private payers already had payment parity or voluntarily implemented telemedicine payment parity as a result of the pandemic. This is true in Rhode Island and nationally.

Payment and Program Integrity

Question: Whether to require reimbursement at rates not lower than the reimbursement rates for the same services delivered in-person

Medicare:

"Telehealth visits are paid at the same Fee-for-Service rate as an in-person visit during the COVID-19 Public Health Emergency."

- This policy was made retroactive to March 1, 2020.
- This reimbursement covers both new and established patient care.

While CMS issued a proposed rule that would permanently expand coverage of certain telemedicine services, it is silent on whether those services will be reimbursed the same as in person services. Public comment on this rule is open until October.